

**Motion to Vacate, Set Aside, or Correct a Sentence  
By a Person in Federal Custody**

(Motion Under 28 U.S.C. § 2255)

**Instructions**

1. To use this form, you must be a person who is serving a sentence under a judgment against you in a federal court. You are asking for relief from the conviction or the sentence. This form is your motion for relief.
2. You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. If you cannot pay for the costs of this motion (such as costs for an attorney or transcripts), you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
8. When you have completed the form, send the original and 1 copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court for  
Address  
City, State Zip Code
9. If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
9. **CAUTION:** You must include in this motion all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District Court of Northern Georgia	
Name (under which you were convicted): Ryan Vincent Hill		Docket or Case No.: 1:15-cr-0109-AT-3	
Place of Confinement: FCI Allenwood Medium P.O. Box. 2000, White Deer, PA 17787		Prisoner No.: 66507-519	
UNITED STATES OF AMERICA		Movant (include name under which convicted) V. Ryan Vincent Hill	

**MOTION**

1. (a) Name and location of court which entered the judgment of conviction you are challenging:  
Richard B. Russell Federal Building and United States  
Courthouse  
75 Spring Street, S.W., Room 2211  
Atlanta GA 30303  
  
 (b) Criminal docket or case number (if you know): 1:15-cr-0109-AT-3
2. (a) Date of the judgment of conviction (if you know): May 26, 2017  
 (b) Date of sentencing: May 26, 2017
3. Length of sentence: 238 months
4. Nature of crime (all counts):  
 18 U.S.C. § 1951(a) Conspiracy to Interfere with  
Commerce by Robbery Count One  
  
 18 U.S.C. §§2113(a) and (d) Armed Bank Robbery  
Count Two  
  
 18 U.S.C. § 924(c) Brandishing a Firearm During a  
Crime of Violence Count Three
5. (a) What was your plea? (Check one)  
 (1) Not guilty ☐      (2) Guilty ☒      (3) Nolo contendere (no contest) ☐  
  
 (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or  
 what did you plead guilty to and what did you plead not guilty to?  
 Plead Guilty to Count One and Two but Not Guilty to Count Three
6. If you went to trial, what kind of trial did you have? (Check one)      Jury ☒      Judge only ☐
7. Did you testify at a pretrial hearing, trial, or post-trial hearing?      Yes ☐      No ☒
8. Did you appeal from the judgment of conviction?      Yes ☒      No ☐

FILED IN CLERK'S OFFICE  
U.S.D.C. - Atlanta

JUN - 6 2019

JAMES N. HATTEN, Clerk  
Deputy Clerk  
By: *[Signature]*

9. If you did appeal, answer the following:

(a) Name of court: Eleventh Circuit Court of Appeals

(b) Docket or case number (if you know): No. 1-15-cr-0109-AT-3

(c) Result: Affirmed

(d) Date of result (if you know): April 25, 2018

(e) Citation to the case (if you know): No. 16-10863

(f) Grounds raised:

Challenge 18 U.S.C. §924(c) enhancement in light of Rosemond  
Physical Restraint Enhancement  
Acceptance of Responsibility

(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐

No ☒

If "Yes," answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

(5) Grounds raised:

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐

No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☒

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket of case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition:

Yes ☐

No ☒

(2) Second petition:

Yes ☐

No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**GROUND ONE: Appellate Counsel Was Ineffective For Not Filing Certiorari**In Light of Dimaya v. Sessions, 138 S.Ct. 1204(2018)/US v. Davis(No. 18-431).

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Petitioner will further explain his reason why relief should follow upon Fraday v. United States to show "Cause" an "Prejudice" why Albert Norton, Jr. should have file Certiorari to Supreme Court after he filed Rehearing En Banc in light of Dimaya v. Sessions Denial on July 2, 2018. At this point while Petitioner would have been on Certiorari a caselaw was being developpe in the Supreme Court[second]time...United States v. Davis, (No. 18-431)(S.Ct. Cert. Granted January 4, 2019) now at this time Petitioner will ask District Court to Hold In Abeyance Davis until Supreme Court decision. "Expected June 18, 2019". See(Martinez v. US, 2019 U.S. App. Lexis 4438 No. 18-11277-D 11 Cir. Feb. 12, 2019)(Hold In Abeyance Davis v. United States). Now Petitioner will conclude his challenge to the §924(c)(1)(ii) which is identical to §924(c)(3)(B) or if the Justice strike down both provision under (A) and (B) which is identical 16(A) or 16(b). Base upon this factual finding its clear at Doc. 116 page 1-2, Wells Fargo Bank Located at 979 Virginia Avenue NE Atlanta Georgia. That also the other Counts in Doc. 116 as such count two and three should be under the same umbrella for relief now at this time Count One does not meet overt act

(b) Direct Appeal of Ground One:

(to attache a "Crime Of Violence" with that said Count 3 should be dismiss.

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND TWO: Trial Counsel Was Ineffective For Not Raising Dean v. United States, No. 15-9260, 4/3/17) Which apply that the instant offense be reduced to as little as One Day or Six Months, or Count Three Dismiss during Sentencing May 26, 2017.**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Petitioner will now carry his burden of proof at this time when it's obvious the outcome would have been different if Albert Norton Jr. would have address this significant caselaw during Sentencing Hearing on May 26, 2017. When the facts Supreme Court caselaw Dean v. United States factual basis at this time would have prevented Mr. Hill from receiving 205 months for the instant offense and separate offense out of South Dakota, 24 months was ran concurrent with instant offense then remaining 33 months was ran consecutive to instant offense to be a total 238 months. Therefore under this Dean provision Petitioner can be subject to a sentence of One Day for Count One and Two or Six Months. Now if the District Court Judge go a step further and apply the facts under Pepper v. United States, 562 U.S. 476, 487-489. Section 3553(a). Then turn to the facts of remaining 33 months for Doc. 186 No. 4:14-cr-40140-KES should totally be ran concurrent in light of Dean v. United States. Now last but not least Count Three Dismiss §924(c)(1)(ii) upon this Dean provision...

(b) Direct Appeal of Ground Two: ("Strickland v. Washington" prongs

(1) If you appealed from the judgment of conviction, did you raise this issue? are met).

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

**GROUND THREE: Trial Counsel Was Ineffective For Not Raising On Direct Appeal South Dakota Doc. 186 should run Totally Concurrent with Northern Georgia Doc. 415 in light of Rosales-Mireles, No. 16-9493 June 18, 2018.**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Petitioner will follow in this new approach which was available during the pendency of Mr. Hill "Direct Review" which at this time Petitioner further explain why relief should follow at this point under Frady v. United States. The Cause and Prejudice should be met when this mishap under double counting of Category score, when the facts is Petitioner

was first time offender with a Cat. score of One when Doc. 186 was enter in South Dakota. Then this same case trigger Petitioner to be sentence under Cat. score Three in Doc. 415. At this time if Trial Counsel would have challenge this argument on Direct Appeal the outcome would have been different because Petitioner would have been subject to only Cat. Score One instead of Three under Rosales-Mireles v. United States. Now upon this reason 3C1.3 should also be group under 5G1.1 under Double Counting.

(b) Direct Appeal of Ground Three:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

- (2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

- (4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

- (5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

- (6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_



(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND FOUR: Trial Counsel Was Ineffective For Not Raising Reckless Driving under 3C1.2 on Direct Appeal and Failing to File 2B3.1(b)(4)(B) under the right challenge base upon [Fradley v. United States] which Cause and Prejudice is met.**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):  
 Petitioner will carry the day under the facts to why it's ~~clear~~ clear upon 3C1.2 Reckless Driving cannot be met unless the factual finding is shown, which establish pursuit of a chase. There is no evidence of such thing and in fact there was no siren's or light flashing to believe such a thing. Therefore See (US v. Martikainen, 640 F.3d 1191; No. 10-13337 11 Cir. May 10, 2011) and US v. Wilson, 392 F.3d 1243; 2004 U.S. App. Lexis 25073; No. 03-144208 11 Cir. Dec. 7, 2004).

Now Upon this factual finding at this sister circuit, See (US v. Paul, 904 F.3d 200; 2018 U.S. App. Lexis 26371 No. 17-2702 2d Cir. Sept. 18, 2018). Then the facts in Fouts v. US, 2018 U.S. Dist. 177730 S.D. FLA Oct. 15, 2018) (2018 U.S. Dist. Lexis 27-19) Which also is the opposite of the Petitioner case at hand but show that Counsel Albert Norton was clearly ineffective when not challenging right standing of Physical Restraint claim. Therefore upon this [Molina-Martinez v. United States], ~~(will establish incorrect guidelines~~ (when each challenge is GRANTED.

(b) Direct Appeal of Ground Four:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

- (2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

Known of these grounds One-Four.

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:

(a) At the preliminary hearing: Burton Finlayson

(b) At the arraignment and plea:

Burton Finlayson

(c) At the trial:

Albert Norton

(d) At sentencing:

Albert Norton

(e) On appeal:

Albert Norton

(f) In any post-conviction proceeding:

Present One Pro-Se

(g) On appeal from any ruling against you in a post-conviction proceeding:

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

Petitioner 28 U.S.C. §2255(f)(1) is timely at this time 90 days run out for a Certiorari. See(Nguyen v. US, 420 Fed. Appx. 875; 2011 U.S. App. Lexis 5380 No. 10194 11 Cir. March 16, 2011)(Clay v. US, 537 U.S. 522(2003). Petitioner further show the court now his 28 U.S.C. §2255(f)(1) is Time-Barred from Oct. 2, 2018 until one year is final on Oct. 2, 2019.

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief:

To Appoint Counsel and Hold Evidentiary  
Hearing at this time.

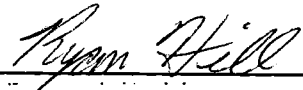
or any other relief to which movant may be entitled.

Petitioner further ask for the  
District Court to agree on all  
grounds under One through four.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion  
under 28 U.S.C. § 2255 was placed in the prison mailing system on May 31, 2019  
(month, date, year)

Executed (signed) on May 31, 2019 (date)

  
\_\_\_\_\_  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.